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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,962	12/27/2001	Gerhard Klingauf	076326-0222	7361

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EXAMINER

ENGLISH, PETER C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/026,962

Applicant(s)

KLINGAUF ET AL.

Examiner

Peter C. English

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-- The MAILING DATE f this communication appears on th cover sheet with the correspondence address --

Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 and 12-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6-8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Invention I, Species A in Paper No. 12 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 6-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, and claims 22-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. There is no allowable generic or linking claim.

It is noted that applicant has incorrectly identified claim 6 as reading on the elected species. Claim 6 states that the pin releases the spool upon "the exceeding of a predetermined torque *beyond a predetermined belt extraction length*". This limitation characterizes Species B (Figs. 5-8), not Species A. See paragraphs 14 and 15 of the specification.

Drawings

3. The drawings are objected to because:
 - In Fig. 1, "3" should be "4", and "4" should be "3". See Fig. 5.
 - In Fig. 2, the two exploded views should be labeled separately (i.e., Fig. 2a and Fig. 2b).
 - In Figs. 3, 4, 8, 13 and 14, the German text should be replaced with English text.
 - In Fig. 10, the lead line for reference number 39 appears to be directed to the cylindrical portion of the coupling element 36, instead of the bearing 39. See Fig. 9.
4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The specification is objected to because:

In paragraph 39, at line 1, "diagrams" should be deleted.

In paragraph 41, at line 2, "tightener" should be "limiter".

In paragraph 46, at line 1, "shows" should be inserted after "11".

In paragraph 47, at line 1, "shows" should be inserted after "12".

In paragraph 48, at line 1, "shows" should be inserted after "13".

In paragraph 49, at line 1, "shows" should be inserted after "14".

In paragraph 54, at line 2, "(not shown)" should be inserted after "frame".

In paragraph 54, at line 4, "occupants" should be "occupant".

In paragraph 55, at line 3, "occupants" should be "occupant".

In paragraph 55, at line 7, "share" should be "shear".

In paragraph 56, at line 5, "the test described in the beginning" is not understood.

In paragraph 67, the last sentence is incomplete.

In paragraph 68, at line 1, "serve" should be "serves".

In paragraph 68, at line 1, "not shown," should be "(not shown)".

In paragraph 69, at line 3, "guides" should be "guide slots". See paragraph 72.

In paragraph 70, at line 2, "engage counter-clockwise" should be "counter-clockwise engage".

In paragraph 75, at line 5, "arrows" should be "an arrow".

Paragraph 85 should be deleted in its entirety since a foreign application cannot be incorporated by reference.

Appropriate correction is required.

Claim Objections

6. Claims 1-5 and 11 are objected to because of the following informalities:

In claim 1, at line 1, "Belt" should be "belt".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claims 2-5 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, at line 4, the term “a locking device” renders the claim indefinite because it is unclear what the relationship is between this locking device and the locking device recited in claim 1, at line 5. Since the invention includes only one locking device, claim 2 should refer back to the locking device of claim 1.

In claim 2, at lines 4-5, the recitation “being made for the releasable inhibition of” is ambiguous and fails to positively recite the function of the pin. The examiner suggests: at lines 4-5, change “being made for the releasable inhibition of” to “releasably inhibiting”.

In claim 2, at line 5, the recitation “rotation of the flange relative to the spool” is inconsistent with line 6 of claim 1, which refers to rotation of the spool. The examiner suggests: in claim 2, at line 5 and in claim 4, at line 4, change “flange relative to the spool” to “spool relative to the flange”.

In claim 3, at line 1, the phrase “the consistency of the pin” renders the claim indefinite because it is unclear what is defined by “consistency”.

In claim 3, at line 2, the recitation “can be ended” is ambiguous and fails to positively recite the function of the pin. The examiner suggests: at line 2, change “can be” to “is”.

In claim 5, at line 1, the term “the predetermined torque” lacks proper antecedent basis. Note that this term is introduced in both claim 3 and claim 4.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ono et al. (JP 10035411). Ono et al. discloses a force limiting retractor comprising: a spool 3 receiving a seat belt (not shown); a flange 5 that can rotate with and relative to the spool 3; a torsion bar 2 having a first end attached to the spool 3 and a second end attached to the flange 5; a locking device 16 for selectively blocking rotation of the flange 5; and a shear pin 50 received in axial cavities 3b, 5b located within the spool 3 and the flange 5.

10. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Singer et al. (US 6,105,894). Singer et al. discloses a force limiting retractor comprising: a spool 13 receiving a seat belt (not shown); a flange 14 that can rotate with and relative to the spool 13; a torsion bar 16 having a first end attached to the spool 13 and a second end attached to the flange 14; a locking device 15 for selectively blocking rotation of the flange 14; and shear pins 25, 31 extending from the spool 13 and received in axial cavities 26 located within the flange 14.

11. Claims 1-4 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujii et al. (US 6,416,008). Fujii et al. discloses a force limiting retractor comprising: a spool 4 receiving a seat belt 3; a flange 14 that can rotate with and relative to the spool 4; a torsion bar 7 having a first end attached to the spool 4 and a second end attached to the flange 14; a locking device 6, 13 for selectively blocking rotation of the flange 14; and shear pins 20, 21 received in axial cavities 22-25 located within the spool 4 and the flange 14.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ono et al. (JP 10035411) or Singer et al. (US 6,105,894) or Fujii et al. (US 6,416,008). Ono et al., Singer et al. and Fujii et al. fail to teach the quantity of force required to shear the shear pin(s). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ono et al. or Singer et al. or Fujii et al. by setting a shear force of 6672 N in order to maximize the energy absorbed by the force limiting retractor. Further, such a modification involving the mere selection of a specific value within prior art general conditions is generally recognized as being within the level of ordinary skill in the art.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hirzel et al. teaches a force limiting retractor with a torsion bar and shear pins.


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. English whose telephone number is 703-308-1377. The examiner can normally be reached on Monday through Thursday (7:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Peter C. English 7/14/03
Primary Examiner
Art Unit 3616

pe
July 14, 2003